

**CITY OF TACOMA  
PLANNING AND DEVELOPMENT SERVICES  
PRELIMINARY REPORT**

**HEARINGS EXAMINER HEARING  
July 18, 2019 – 9:00 am  
Council Chambers**

**“Tacoma Behavioral Hospital” Site Rezone/Conditional Use Permit/Parking Lot Development Standards Variance/Critical Areas Verification Permit**

**File No. LU19-0301**

**A. SUMMARY OF REQUEST:**

The applicant proposes to develop the Tacoma Behavioral Hospital, an in- and out-patient psychiatric hospital on approximately 5.5 acres of land. The required land use applications for this request are:

- A Site Rezone to change the existing C-1 General Neighborhood Commercial District and T Transitional District zoning designations to R-4-L Low-Density Multiple-Family Dwelling District. The site is also located within the South Tacoma Groundwater Protection Overlay District, which will not change under this application.
- Conditional Use Permit (CUP) to allow the hospital in the R-4-L District;
- Parking Lot Development Standards Variance to allow a portion of the parking lot in front the building, facing South 19th Street; and
- A Critical Areas Verification Permit to verify the presence of critical areas, on- or within 300 feet of the site, and to demonstrate that the proposal will avoid possible impacts to the critical areas and meet the standards under Tacoma Municipal Code (TMC) Chapter 13.11, the City’s Critical Areas Preservation Ordinance (CAPO).

In addition, the required State Environmental Policy Act (SEPA) Determination was issued by the Planning and Development Services (PDS) Director on June 13, 2019. The Mitigated Determination of Non-Significance (MDNS) was not appealed and its required mitigations are incorporated into the recommended conditions under Section J. of this staff report.

**B. GENERAL INFORMATION:**

1. Applicant: Bob McNeill, Barghausen Consulting Engineers, Inc.  
18215 72<sup>nd</sup> Avenue South  
Kent, WA 98032
2. Property Owner: Tacoma Life Properties, LLC  
1450 West Long Lake Road, Suite 340  
Troy, MI 48098
3. Location: The site is located in Central Tacoma and the primary address for this application is 1915 South Proctor Street. The site contains (6) parcels: 0220121038, 0220121017, 0220121026, 0220121040, 0220121058, and 0220121160 and is located within Section 12, Township 20, Range 02, Quarter 11, Tacoma, Washington.

**Planning and Development Services Preliminary Report**

File No. LU 18-0301

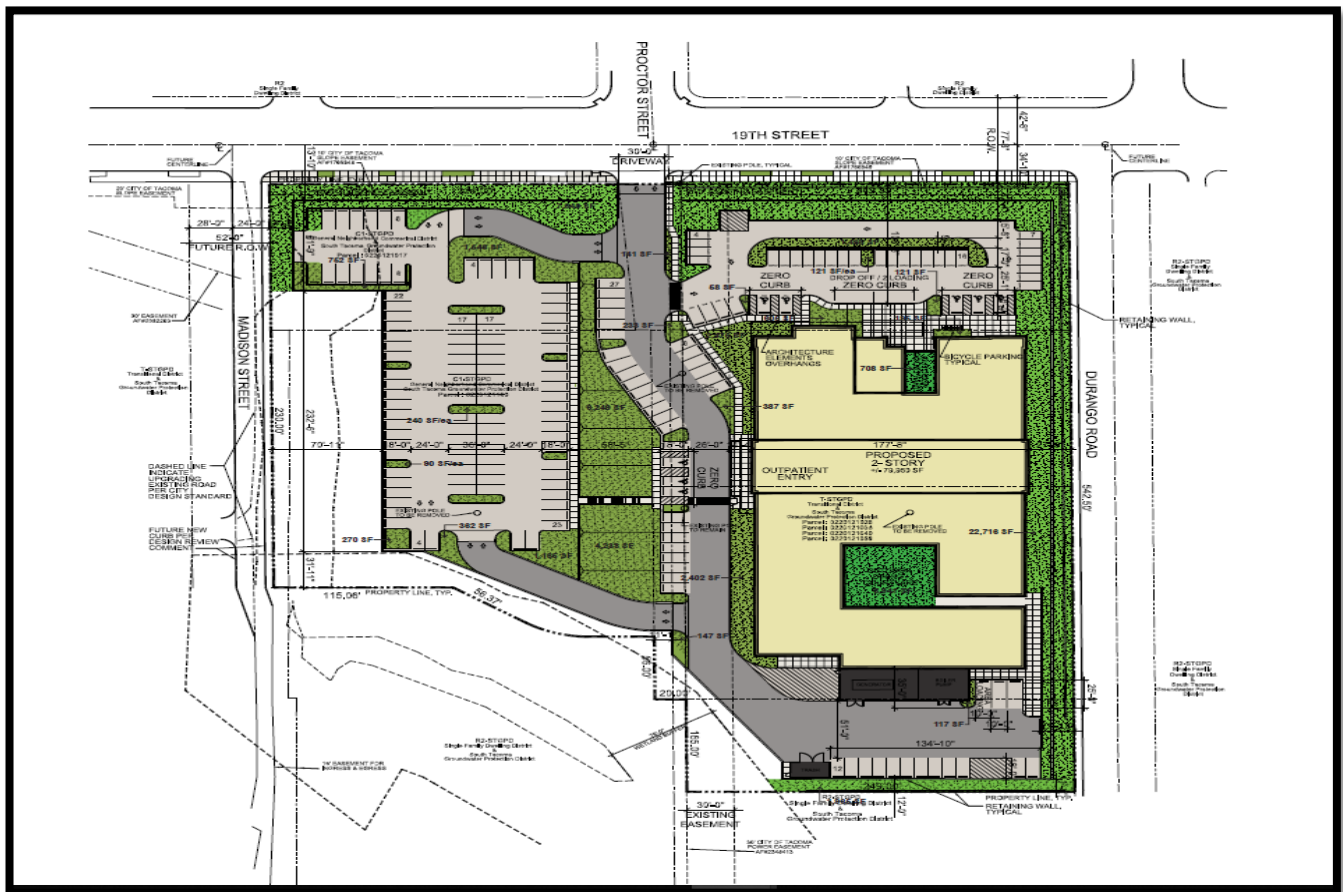
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### C. PROJECT DESCRIPTION:

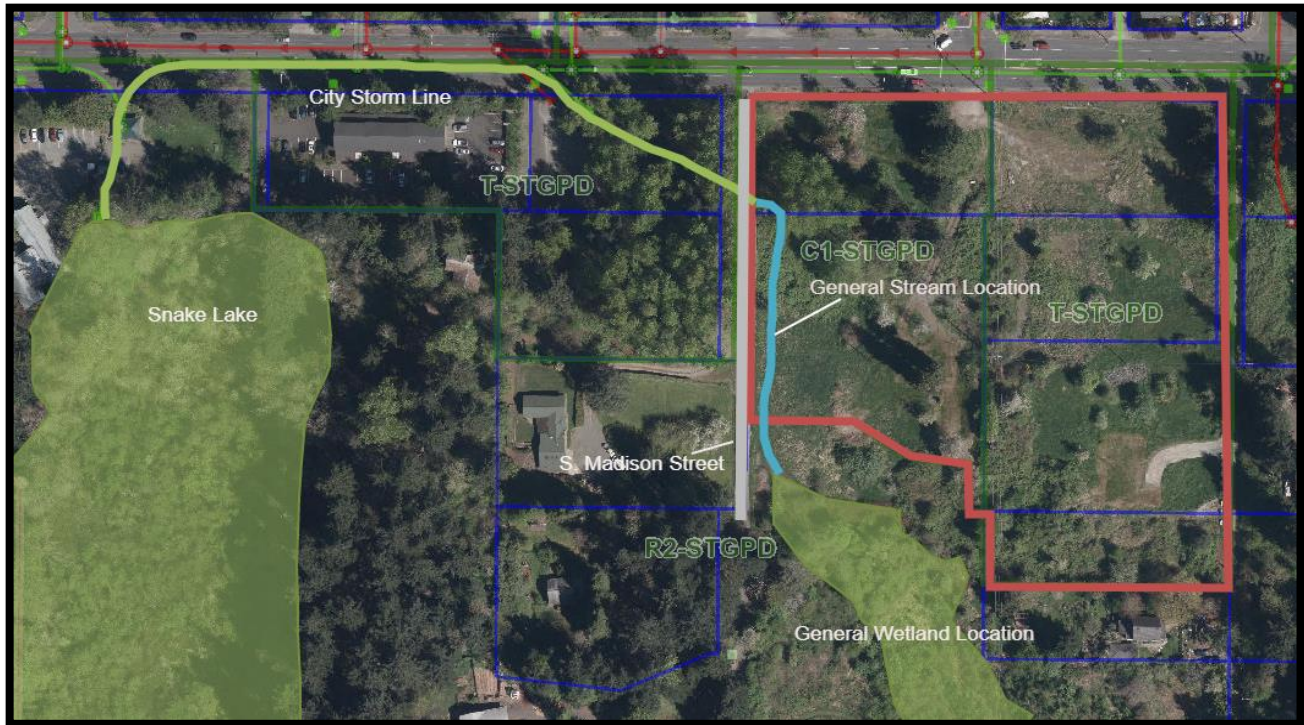
The proposal is for a 105-bed in- and out-patient psychiatric hospital. The building will be 2-stories and approximately 83,000 sq ft in-size. The height of the 2 floors will be about 30 feet with about 5-10 more feet for the parapet to screen the rooftop mechanical equipment. The entrance for the in-patient customers will be at the north front of the building while the out-patient entry will be on the west side of the building. The site development for the hospital and its 184-space surface parking lot will require about 36,000 cubic yards of grading activity and 10- to 16.5-foot retaining walls around the property. The hospital is proposed to be located within the easterly half of the site, with surface parking lots to the west side, south rear and north front of the building. Access is proposed to remain from South 19<sup>th</sup> Street at the South Proctor Street intersection. No vehicular or pedestrian access is proposed from South Madison or South Durango Streets. If this application is approved, a future right-of-way dedication of about 20 feet for South Durango Street is shown on the Site Plan documents.

A Category III wetland is located south of the project site and its 75-foot buffer extends onto the south westerly portion of the site. The wetland drains to the north along the western edge of the site where it then enters the City's stormwater system near the northern property boundary and ultimately discharges to Snake Lake, located west of the subject property. Snake Lake is a wetland of local significance. The linear drainage is regulated as a Type Ns2 stream. Ns2 streams are seasonal non-fish streams and have a 25-foot buffer. See Exhibit 3 for the Project Plans and Exhibit 7 for the Critical Areas Report.

### PROPOSED SITE PLAN



## GENERAL LOCATION OF CRITICAL AREAS



### D. ADDITIONAL INFORMATION:

#### 1. Existing Site Conditions

The site is located on a small plateau, in a valley like depression, below South 19<sup>th</sup> Street which abuts the site to the north. Most, if not all, of the residential structures have been removed from the site, leaving moderate to heavy vegetation of trees, shrubs and grasses. The existing drop off from the South 19<sup>th</sup> Street sidewalk to the main portion of the site is about 20 feet, requiring terracing, an 11-foot+/- retaining and a 10-foot slope easement for the City for the stability of South 19<sup>th</sup> Street. In addition, the topography generally slopes down from northeast to southwest with about a 34-foot grade change from South Durango Street to South Madison Street.

The site contains (6) parcels with the lower southwest parcel's irregular shape created by a 2007 boundary line adjustment (see File No. MPD2007-40000095202). Under this BLA, the lower wetland and its buffers (as delineated at the time) were transferred to MetroParks Tacoma.

#### 2. Surrounding Conditions

The site is bounded by South 19<sup>th</sup> and South Proctor Streets to the north, South Madison Street to the west, and South Durango Street to the east. South 19<sup>th</sup> Street is about 80 feet in width and a multi-lane principal arterial road. South 19<sup>th</sup> Street is also designated as a pedestrian street by the City's Comprehensive Plan and the Land Use Code. See Page 2-48 and Figure 7 of the Urban Form Element and TMC 13.06.100.C.2.

South Madison and South Durango Streets are both dead-end residential streets, about 30 feet and 35 feet in-width, respectively. The most southern portion of South Durango Street narrows down to

about 15 feet. This application anticipates future a 20-foot right-of-way dedication for South Durango Street to provide the required ½ street for a future street alignment. Staff has received inquiries for development on the east of side South Durango Street, at which time a street dedication would likely be required to complete the street alignment.

Pierce Transit bus stops are located on South 19<sup>th</sup> Street in front of the site and just west of South Proctor on the north side of South 19<sup>th</sup> Street. In addition, South 19<sup>th</sup> Street is fully developed with curb, gutter, sidewalks and street trees. The neighborhood streets north of South 19<sup>th</sup> Street are for the most part built out with curb, gutters and sidewalks on at least one side of street. The residential streets adjacent to the site south of South 19<sup>th</sup> Street are typically not fully developed, and some streets such as South Durango and South Madison Streets are gravel roads with no curbs or gutters.

As noted earlier, the site's topography increases in a general northeast direction. This slope continues up across South Durango Street with a steep 20- to 30-foot grade change to the developable portion of the residential property directly across the street.

### 3. Surrounding Uses

The surrounding area is a diverse neighborhood with commercial - retail, hospital and medical offices, single-family and multi-family residential uses. MetroParks Tacoma owns the property directly to the south which contains one of the wetlands noted earlier. Directly to the west, across South Madison Street, is Plaza 19 Associates, which contains a medical office building. The remaining properties directly adjacent or across a street to the east or west contain single-family homes.

The larger neighborhood is bounded by SR 16 to the west and south, South 12<sup>th</sup> Street to the north, Sprague Avenue to the east. Larger- and medium-scale residential, commercial and recreational development within the neighborhood include, but are not limited to:

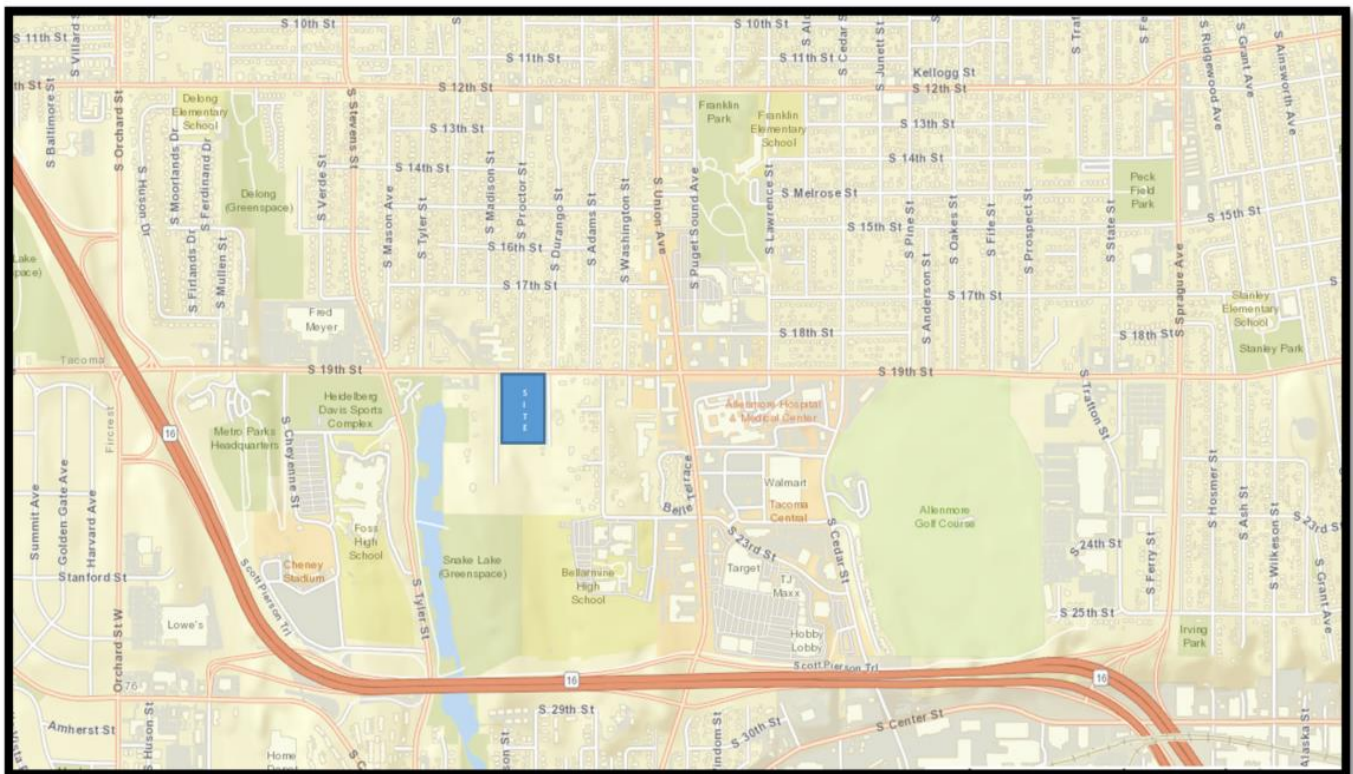
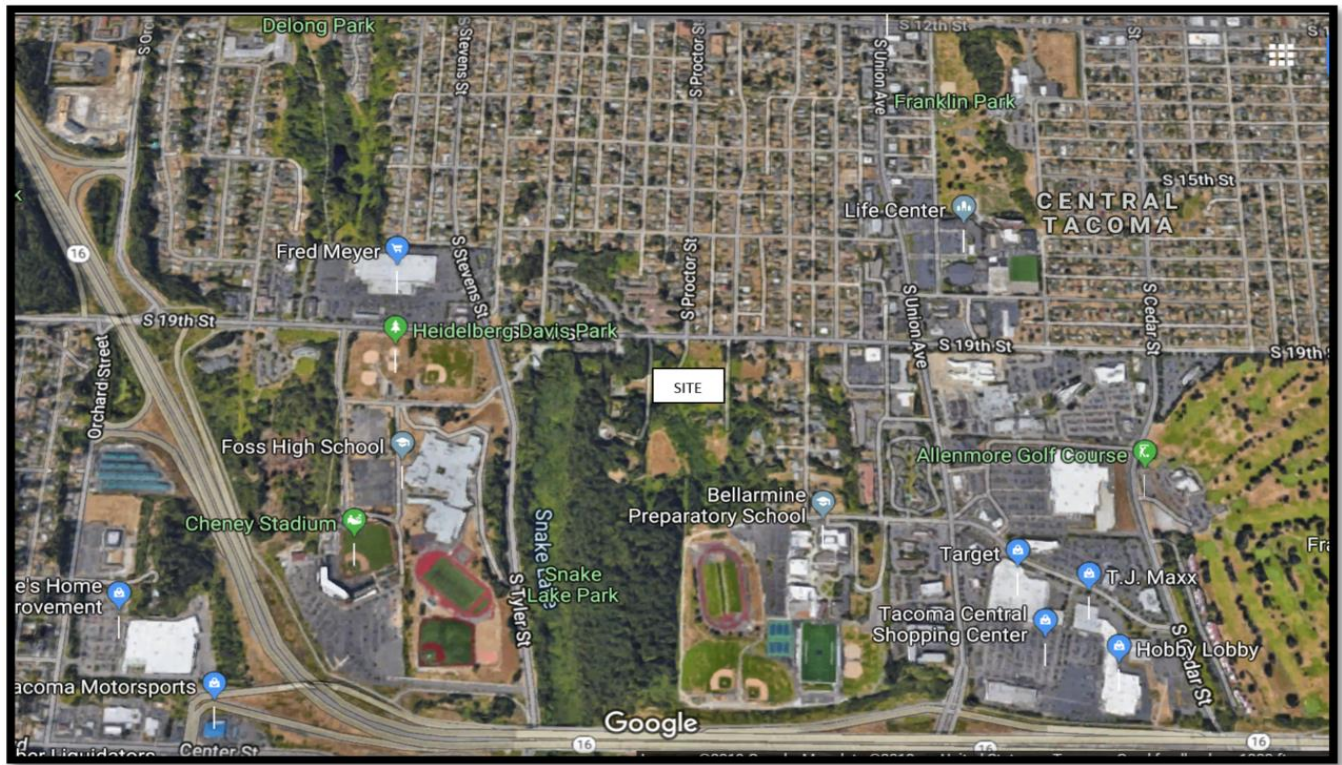
- To the east along South 19<sup>th</sup> Street are the Pacific Northwest Eye Associates, Everlast Dentistry, Heaton Dentistry, Allenmore Hospital and Medical Center which also now includes MultiCare's Wellfound Behavioral Hospital, Allenmore Golf Course, and the Allenmore Marketplace; Drake Psychological Services, MVP Physical Therapy, etc.;
- To the west along South 19<sup>th</sup> Street and southwest of the site are the Plaza 19 Professional Center, Tacoma Nature Center – which provides Pre-K through 6<sup>th</sup> Grade classes and a summer camp, Snake Lake Park, the Heidleberg Sports Complex, Fred Meyers, MetroPark Tacoma's Headquarters, and Cheney Stadium;
- The Park Rose Care Center (nursing home) is located directly across the South 19<sup>th</sup> Street from the site;
- Multi-family properties in the immediate area include, but may not be limited to, The Park 19 Apartments, Union Crossing and Unionaire Apartments, Belle Terrace Apartments, Brookdale Allenmore Senior Living Solutions, etc.; and
- The Veterans of Foreign Wars (VFW) Post No. 91 is located on South Union Avenue, across the street from the Wellfound Behavioral Hospital and in between the Unionaire and Belle Terrace Apartments.

There are also (2) high schools, (2) elementary schools and several smaller, neighborhood parks within the larger neighborhood:

- Bellarmine Preparatory High School and Foss High School are located to the south and southwest;
- Franklin Elementary School and Delong Elementary School are located off of South 12<sup>th</sup> Street and are directly adjacent to Franklin Park and Delong Park, respectively; and
- Peck Athletic Complex is located at South 15<sup>th</sup> Street and Sprague Avenue.



## SURROUNDING NEIGHBORHOOD



Staff found historic permit records for single-family residences, utilities and accessory structures for the parcels within the project site, all which have been since removed. There was also an officially approved accessway determination in 1969 to allow access off a private roadway from South Durango Street for a new single-family dwelling at 1926 South Durango Street.

In 2006 a previous property owner and consultant team proposed a Site Rezone from the site's then R-2 One-Family Dwelling District to the current C-1 and T District designations, a Wetland Development Permit and SEPA Determination for (3) office/medical buildings, totaling about 69,000 sq ft and parking facilities for 330 off-street parking spaces. While there were appeals filed by the Central Neighborhood Council and MetroParks Tacoma for the SEPA MDNS, in 2008 the Hearing Examiner and City Council at the time ultimately affirmed the SEPA MDNS and approved the Site Rezone (under Ordinance No. 27701) and Wetland Development Permit.

As required at the time of approval, a Concomitant Agreement containing the conditions from the approved applications was recorded with Pierce County under Recording No. of 200807030640. While the Site Rezone and SEPA actions do not expire, the associated Wetland Development Permit expired in February 2013, (5) years after its final approval date. The 2006 land use permitting documents are provided as Exhibit 4 to this staff report for background. Should this application be approved, the conditions for this proposal would supersede those contained within the 2008 Concomitant Agreement.

#### 5. Neighborhood Zoning

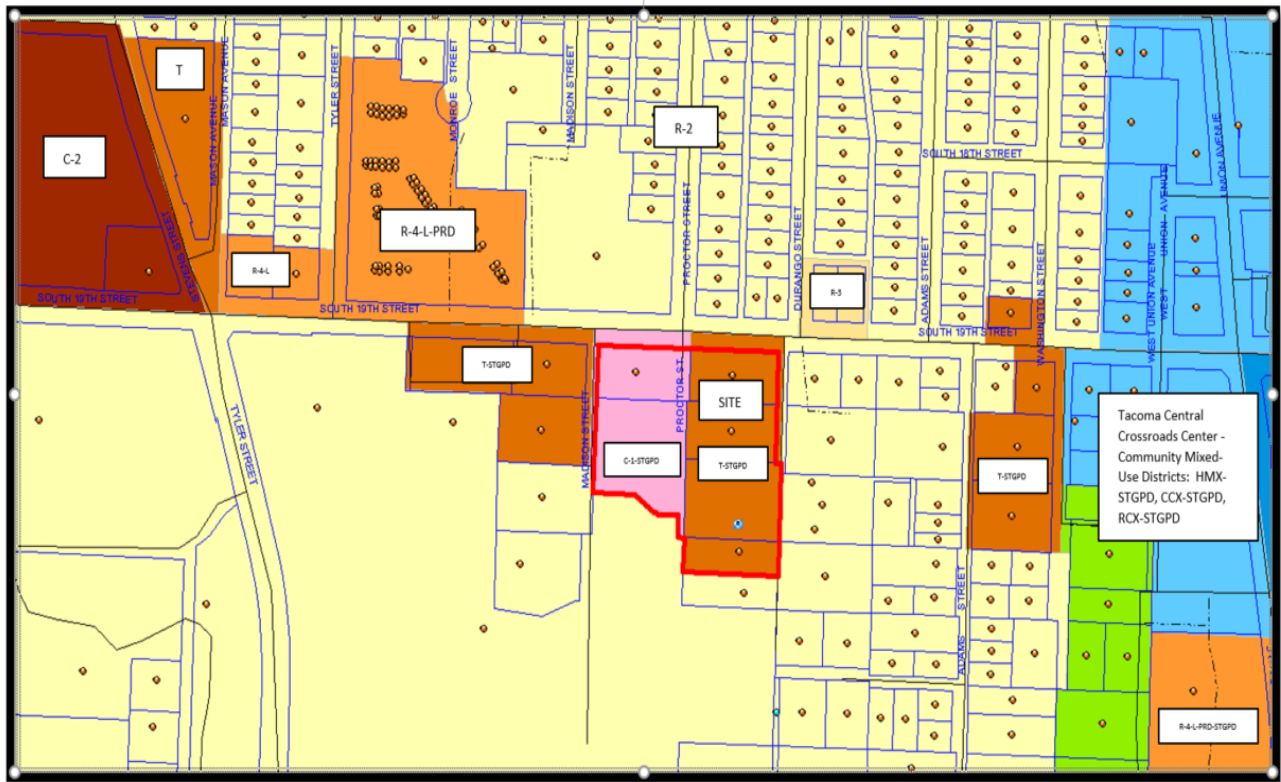
There have been multiple rezones along South 19<sup>th</sup> Street, from the predominate R-2, single-family zoning in 1953 to the current mix of single-family and lower-scale multi-family and commercial zoning and uses that are currently located along South 19<sup>th</sup> Street. The zoning and uses to the south and north of South 19<sup>th</sup> Street are predominately single-family and low-scale multi-family residential. The zoning changes were created through a mix of Site Rezones initiated by individual property owners and Area-Wide Rezones initiated by the City so the sites' zoning would be consistent with the underlying Comprehensive Plan designation.

The Tacoma Central Crossroads Mixed-Use Center that contains the Allenmore Hospital and Medical Center and the shopping center to the east was created in 2009 with an area-wide rezone from the HM Hospital Medical District and various commercial districts under City Ordinance No. 27818.

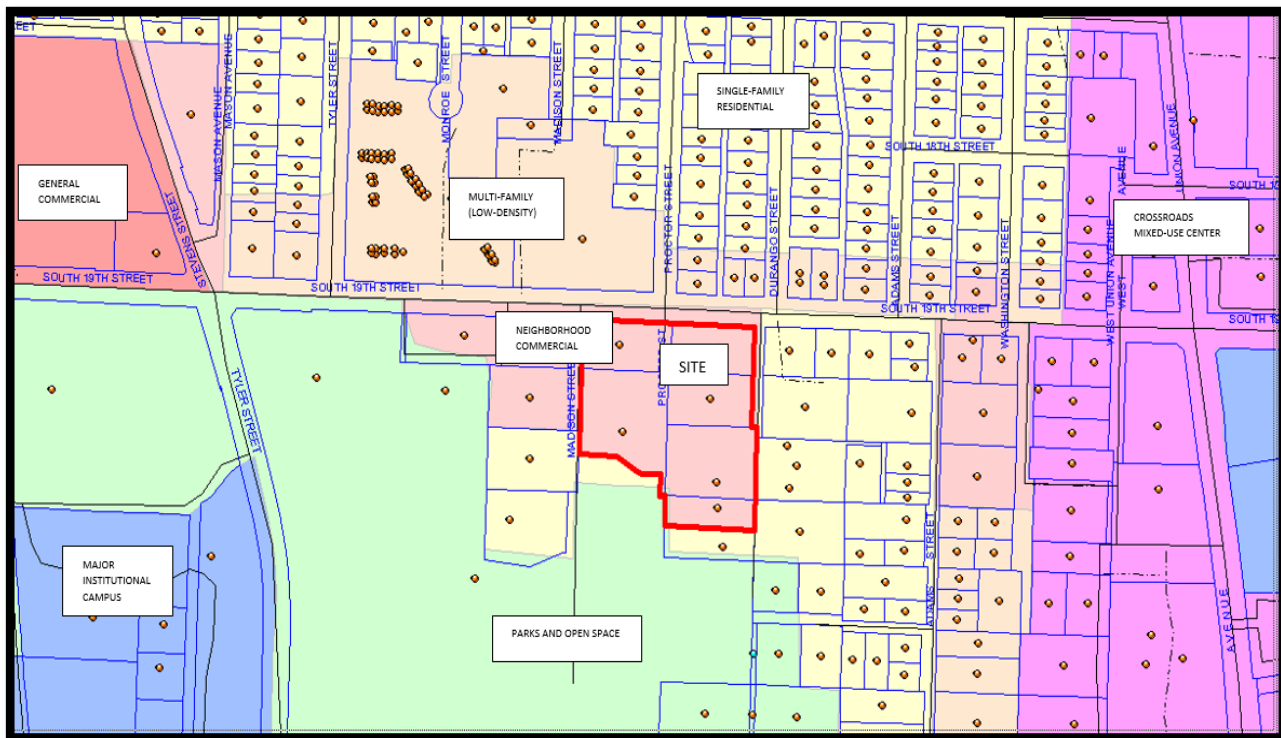
#### 6. Comprehensive Plan Designation

The City's Comprehensive Plan Future Land Use Map designates the site as being located within the "Neighborhood Commercial" land use category. As expected, the variety of zoning districts within the neighborhood correspond with a similar variety of land use designations under the Future Land Use Map. As shown below, there is a mix of land use designations that surround the project site, which include: General Commercial, Parks and Open Space, Neighborhood Commercial, Multi-Family (Low-Density), Major Institutional Campus, Single-Family Residential, and Crossroads Mixed-Use Center.

## ZONING MAP



## COMPREHENSIVE PLAN – FUTURE LAND USE MAP





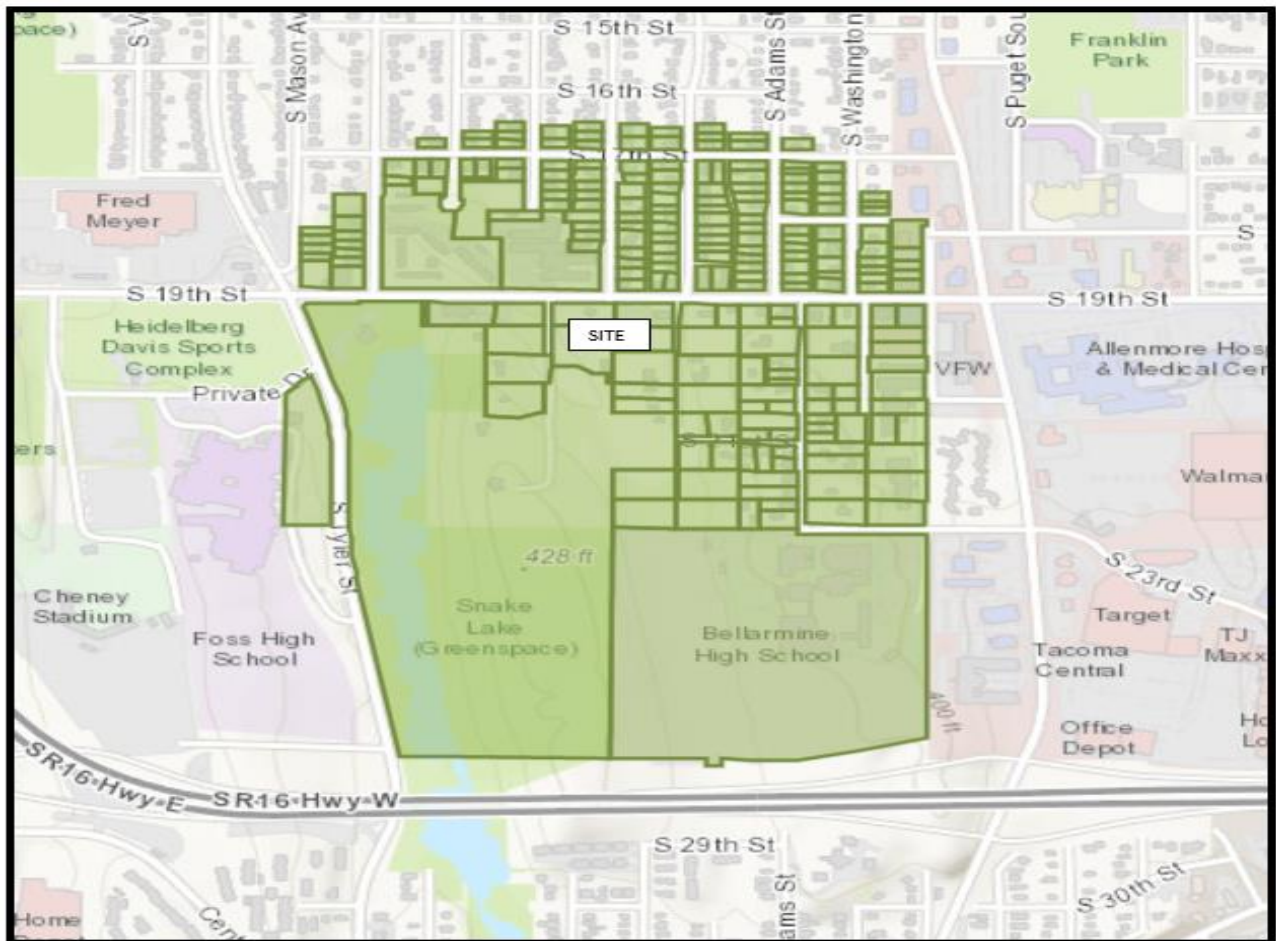
7. Application History

The application was determined technically complete on November 27, 2018. The applicant then took the time needed to revise its critical areas and hydrology reports to demonstrate that the critical areas and buffers would not be impacted and that it would meet the standards under the CAPO, reduce the amount of parking proposed in front of the building, and revise its layout to account for emergency vehicle access and circulation.

8. Notification

The Public Hearing Notice was issued on May 10, 2019 and was mailed to 248 persons, including owners of record and/or taxpayers of record for property within 1,000 feet of the site and mailed and/or e-mailed to the Central Neighborhood Council, qualified neighborhood and business groups, City staff, outside agencies, and individuals/organizations that requested notice prior to the application becoming complete for review. In addition, the required Legal Notice was published on May 15, 2019 in the Tacoma Daily Index, property information signs were posted on the site, the Public Hearing Notice was posted on the City's website along with the application documents.

MAILING RADIUS MAP





## **E. SEPA – ENVIRONMENTAL EVALUATION:**

### **1. SEPA MDNS Determination**

Review under SEPA is required because rezone applications are not exempted as minor land use decisions; further, the amount of grading activity, the size of the new commercial building and the number of parking spaces all exceed the flexible thresholds for SEPA exemptions. Pursuant to the State's SEPA Rules (WAC 197-11) and the City of Tacoma's Environmental Code (TMC 13.12), the Director issued a MDNS for the proposed action on June 13, 2019.

Issuance of the MDNS was based on a review of the applicant's Environmental Checklist, the Joint Aquatic Resource Permit Application (JARPA), the project plans, written comments received from neighbors and other interested parties, comments received from outside agencies, special studies submitted - which include a Traffic Impact Analysis, Wetlands, Streams, and Critical Habitats Evaluation and Delineation Report and Buffer Establishment Program, Hydrology Report and a Preliminary Stormwater Site Plan.

### **2. Required Mitigations**

City staff and outside agencies such as the City's Traffic Engineering group, the Washington Department of Archaeology and Historic Preservation (DAHP), the Tacoma-Pierce County Health Department (TPCHD) and the Washington Department of Ecology (Ecology) provided mitigation recommendations for the SEPA review that were incorporated within the MDNS and if this application is approved, are included in the recommended conditions of approval in Section J. of this staff report.

### **3. Advisory and Associated Land Use Permit Comments**

Comments also received from the City's Site Development Group, Building Code Plans Examiner, Public Works Department, Tacoma Fire, Tacoma Public Utilities, Real Property Review and others were provided as advisory comments to the applicant team for the required City building and development permits should these land use applications be approved. These advisory comments are included in Section K. of this staff report and can be reviewed in full within Exhibit 15.

The appeal deadline for the MDNS was June 27, 2019. While no appeals were filed, several written comments were submitted in objection to the proposal during the SEPA comment period. These comments were included with the MDNS documents with an advisory note that those comments applicable to the associated land use applications would be addressed in this staff report. All SEPA MDNS documents, written comments received for the SEPA review deadline, and special studies are included in Exhibits 5, 7, 8, and 17.

### **4. Staff Follow-Up**

The site is not located within a historic district, nor is it located within the 1873 Puyallup Tribe Settlement Area. However, per the DAHP recommendation, a copy of the SEPA documents were sent separately to the Puyallup Tribe for comment. To date, no comments from the Puyallup Tribe have been received.

Due to the public safety concerns expressed in the written comments submitted and by those expressed to staff on the phone and in-person, staff also sent the SEPA documents to the Tacoma Police Department, Sector 2 staff with an invitation to provide written comments and/or attend the public hearing. Staff has since been in contact with Lieutenant Dan Still who has, along with members of his staff, been added to the City staff attendee list for the Public Hearing.

## 5. Public Hearing – Staff Attendees

In addition to Tacoma Police Department staff, City plan reviewers from the following disciplines will be at the Public Hearing: Land Use, Critical Areas, Traffic Engineering, and Site Development for stormwater management and off-site improvements.

## F. WRITTEN PUBLIC COMMENTS:

The written public comments that were received by the May 31, 2019 SEPA comment deadline were from:

- Jerry Kunz and Maureen Howard, 3320 South 8th Street, Tacoma, WA 98405;
- Stephanie Frieze, 3815 South 19<sup>th</sup> Street, Tacoma, WA 98405;
- Heather L. Burgess, Phillips Burgess, PLLC, 724 Columbia Street NW, Suite 320, Olympia, WA 98501;
- Mark R. Steepy, KPFF, 612 Woodland Square Loop SE, Suite 100, Lacey, WA 98503;
- Dana Miller – [0618dana@gmail.com](mailto:0618dana@gmail.com);
- Jessica Malaier – [jessicamalaier@gmail.com](mailto:jessicamalaier@gmail.com); and

Since the close of the SEPA comment period, staff received one additional written comment from:

- Janet Kurz, 1019 South Pearl Street, Apt L, Tacoma, WA 98465

All public comments not made by the outside agencies on the related land use applications (Site Rezone, CUP, Parking Lot Development Standards Variance, and Critical Areas Verification Permit) are provided in Exhibit 6 for this staff report. A summary of the concerns expressed and staff's response are as follows:

1. **Critical Areas:** Dismay that the proposal will be located on a wilderness site with a wetland. That there are other sites in the City this proposal could be located, such as the old K-Mart site on 6<sup>th</sup> Avenue.

That the application does not adequately provide for mitigation for wetlands located southwest of the site, does not sufficiently mitigate for the project's impact on habitat and species such as migratory routes for birds and waterfowl.

*Staff Response – The Critical Areas Verification Permit is required to demonstrate that the proposal will avoid impacts to the critical areas and buffers and comply with the development standards under the CAPO. Staff's analysis and findings for this review is provided for under Section F of this report.*

2. **Worker Safety and Training:** Concern that Signature Health, the developer for this proposal, appears to be poorly run and is potentially dangerous to both its workers and those in its care. A weblink to <https://www.indeed.com/cmp/Signature-Healthcare-LLC/reviews> was provided that is a forum for employee reviews of the company.

*Staff Response - The Land Use Code does not regulate employment conditions. As such, staff cannot provide a response to this concern. The weblink was provided in this staff report because there are well over 20 pages of employee comments on this website.*

3. **Public Health and Safety:** By far, the most vocal and numerous concerns expressed are that the behavioral hospital will pose a public health and safety risk to those who live, work, play, go to school, and are cared for in the neighborhood. These include people who reside at nursing facilities or go to physical therapy facilities, visit the VFW Post, visit the public parks/open spaces, attend summer camp and nature/educational programs at the Tacoma Nature Center, and/or go to any

one of the (4) public and private schools within the neighborhood. One commenter noted that all of these uses provide amenities and services for vulnerable people – children and minors, veterans, older people, and physically challenged people. Ultimately, allowing a psychiatric facility in such close proximity to a high concentration of vulnerable people is not only unsafe, but irresponsible.

That the application is contrary to the Comprehensive Plan's Transportation Element policies as they relate to pedestrian safety. Specifically, the substantial increase in trip generation and locating the parking lot located between the building and South 19<sup>th</sup> Street will create a significant impact to ingress and egress and to pedestrian and vehicular safety.

Also, a noise study should be required to determine the impacts from noise during construction and the hospital's operation and that soils types and suitability for construction were not properly identified.

*Staff Response - As noted earlier, staff provided these comments to the Tacoma Police Department - Sector 2 staff, who advised that they will attend the Public Hearing to testify and/or answer questions from the public and/or the Hearing Examiner. After the end of the SEPA comment period, staff forwarded all the comments for this application to the applicant team and advised that it provide a written response and/or possible revisions to its application that could address these concerns either before the Public Hearing (for staff's analysis) or at the Public Hearing so the team may also respond to any oral comments and questions from the Hearing Examiner, the public and/or City staff. Staff's analysis regarding public safety with the application - as proposed, will be provided in Section F. of the staff report.*

*The City's traffic engineer reviewed the proposal and provided recommended conditions for the application as it relates to the South 19<sup>th</sup> and South Proctor Streets intersection for vehicle, pedestrian and bicycle safety. As noted earlier, these recommended conditions are included in Section J. of this report.*

*Should this application be approved, the proposal will be required to comply with all applicable City codes and ordinances, which include the Noise Code under TMC Chapter 8.122 and the Building Code for soils stability for construction.*

- 4. Dispersion of Facilities:** One commenter recognizes that mental health services needs to be provided for a community's citizens. However, his/her concern is whether this proposed hospital is meant to be a regional facility, and if so, then it would be serving citizens from outside the of Tacoma. In doing so, this commenter states that other cities and counties will use this facility to "dump" their problems onto the citizens of Tacoma, as Pierce County did with sexual offenders from the McNeil Island Special Commitment Center. The commenter notes that Governor Inslee has stated that the State needs to move away from large, regional (psychiatric) hospitals.

*Staff Response – While at the top of page 3 of its Site Rezone Narrative, the applicant states that the "proposal is intended to become part of a concentration of healthcare facilities in or near the South 19th Street corridor.....", he does not indicate where the patient population will come from - within the City, Pierce County or outside of the County. While staff understands the commenter's concern, staff does not think this information (where a patient lives or is from) can be provided with certainty at the land use application stage, nor is there a requirement in the Land Use Code to provide such data. The "hospital" use is different from the "special needs housing use" where there is a dispersion requirement in several residential districts. Even then, the dispersion requirement under TMC 13.06.535.C. is 600 feet, for which the recently opened Wellfound Behavioral Hospital at the Allenmore Hospital and Medical Center is located about a ¼ mile or about 1,300 feet to the east.*

- 5. Rezone Request:** That the rezone request to allow the proposed hospital into the R-4-L District conflicts with its district intent statement for primarily low-density multi-family and other small-scale



residential development. The commenter notes that the existing Transitional zoning designation where smaller scale office use, lower traffic generation, fewer operating hours, smaller scale buildings and less signage would be expected is the appropriate buffer zone to be located between residential and commercial zones and uses.

That the proposal will be contrary to Comprehensive Plan's Design and Development, Urban Form and Downtown Element policies as it does not result in a compatible and graceful transition between densities, intensities and activities and does not protect residential districts and transitional areas.

That the existing provisions in the Tacoma Municipal Code will fail to properly mitigate adverse impacts created by the proposed use that is not consistent with the surrounding and adjacent neighborhood.

*Staff Response – Staff agrees that the intent of the R-4-L District is for smaller-scale residential use, but that intent statement also recognizes that conditional uses may be appropriate as they are required to comply with the more restrictive residential development standards. In this case, the application will comply with or exceed the R-4-L development standards, with the exception of locating a portion of the parking lot in front of the building - for which a variance is requested and the proposed 40-foot building height – which will be reviewed for consistency with conditional use criteria under TMC 13.06.640.B. and D.*

*If the rezone request is approved, staff has recommended conditions for this application that include, but are not limited to, a retaining wall design plan and applying provisions from the City's Landscaping Code and Residential Compatibility Code to mitigate potential noise, light, glare and visual impacts on existing surrounding residential uses and the South 19<sup>th</sup> Street interface. Staff will provide an analysis of the Variance and Conditional Use Permit criteria and a copy of the applicable Comprehensive Plan policies under Sections F and G. of this report.*

*Staff believes that reference to the Downtown Element was an error, but just to clarify, the site is not located within the Downtown Tacoma land use area under the Comprehensive Plan, so it will not include policies within the Downtown Element. Likewise, the applicant and the commenter includes policies that from the Centers portion of the Urban Form Element. Since the site is not located within a Center under the Comprehensive Plan, staff will not include these policies in Section G. of this report. With regards to Goal DD-3, within the City's Sign Code, the development standards for uses within the R-4-L District are under TMC 13.06.522.E. and F. This code section should be appropriate for the hospital proposal because it was designed for low-density, multi-family uses, not commercial or institutional uses.*

**Proposed Site Plan Layout and Building Design:** That if the rezone is approved, the proposed building should be located in the existing Transitional District portion of the site and the parking areas be located in the existing commercially zoned site. That the proposed height of almost 40 feet will create a significant environmental impact, will block views and will cause significant adverse impacts to light, glare and air for street exposures and from adjacent and surrounding properties. In addition, the 193-space parking lot will create an unreasonable amount of noise and 24-hour activity level not compatible with the residential neighborhood.

That the requested parking lot design variance does not meet the review criteria under TMC 13.06.645.B.6.b. Specifically, locating the building at the highest location on the site does not minimize visual impacts. A better design option would be to locate the building further to west from South Durango Street and further north to front South 19<sup>th</sup> Street. This would locate the building in the existing commercial district (as opposed to the existing transitional district), better minimize visual and security impacts on the residential neighborhood and still allow for access of off South 19<sup>th</sup> Street.

That the higher cost for additional excavation is not a justification for a variance.

That the applicant's contention a single-building design was done so to maximize building security and creates the need for the building height exception is negated by the security impact of locating the building closer to existing residential homes along South Durango Street.

That the proposed perimeter landscaping will not mitigate the character and aesthetic impacts on South 19<sup>th</sup> Street and that that parking lot's location cannot be screened with vegetation and or its natural surroundings.

*Staff Response – Staff believes there is an error in the commenter's recommendation for the building location, and that she is recommending that the building be located on the existing C-1 portion of the site, not within existing Transitional portion of the site. If the Hearing Examiner finds that application cannot be properly conditioned to mitigate potential impacts on the surrounding residential uses, then this may be a re-design option for the site. As noted, above, staff will provide its analysis of whether the proposal may be approved with conditions in Section F.*

*While applicant's Narratives may reference a parking lot with 193 parking stalls, the current application, and that which was reviewed under SEPA, is for a 184-stall parking lot, the minimum amount of spaces required for the 105-bed hospital. As noted earlier, this staff report includes recommended conditions to address possible activity, noise, light and glare impacts from the proposal on adjacent and surrounding uses. With regards to possible air and views impacts, staff respectfully disagrees as the building is proposed to be located in the on the eastern half of the site, over 100 feet from the closest single-family home to the south, located at 1932 South Durango Street. In addition, the residential property to the east is located across a 35-foot South Durango Street right-of-way and building area for this site is at least 20-30 feet above the subject site.*

*Staff will provide a response to the concerns regarding the parking lot design variance and proposed building height as it relates to the Variance and Conditional Use criteria under Section F. of this report. However, staff notes should this application be approved, that under the Landscaping Code, a landscape plan and landscape management plan prepared by a landscape professional will be required for the building and development permits for this proposal. The landscape plan will also be required to comply with the additional landscaping conditions provided for under Section J. of this report.*

#### **F. STAFF ANALYSIS OF APPLICATION REVIEW CRITERIA UNDER THE TMC:**

The following are staff's analysis for the review criteria for each required land use application for this proposal.

**Site Rezone.** TMC 13.06.650.B. provides that an applicant seeking a change in zoning classification must demonstrate consistency with all of the criteria listed below. The applicant's Narrative/Justification for the Site Rezone is included as Exhibit 9 of this staff report.

1. That the change of zoning classification is generally consistent with the applicable land use intensity designation of the property, policies, and other pertinent provisions of the Comprehensive Plan.

*Staff Response – The site's current zoning of C-1 and T Districts are designations typically located within the Comprehensive Plan's Neighborhood Commercial land use intensity designation for the site. While the proposed R-4-L District is not listed as typical zoning designation within Neighborhood Commercial areas, Table 3 of the Comprehensive Plan's Urban Form Element recognizes that smaller scale commercial and institutional development could be allowed within the Neighborhood Commercial designation:*

*“This designation is characterized primarily by small-scale neighborhood businesses with some residential and institutional uses. Uses within these areas have low to moderate traffic generation, shorter operating hours, smaller buildings and sites, and less signage than general commercial or mixed-use areas. There is a greater emphasis on small businesses and development that is compatible with nearby, lower intensity residential areas.”*

*The C-1 and R-4-L Districts both allow for hospitals, with the C-1 District as a permitted use and the R-4-L District as a conditional use. The applicant reviewed the development standards for both districts and determined that a stronger application could be made for the proposal as a conditional use in part because the hospital would require a floor area variance under the C-1 District, which limits each building to 30,000 sq ft. Staff’s general advice to applicants is to apply for the lowest zoning designation possible that can be supported by and is consistent with all Comprehensive Plan goals and policies, be able to meet all development standards for the proposed district, and be able to meet the review criteria for the associated land use applications.*

*The Comprehensive Plan policies in Section G and Exhibit 14 are identified by staff and the applicant to support this application. Staff also included policies that were identified by the written comments that are not in support of this application. While staff agrees there are policies that may or not support the application, the Land Use Code recognizes that hospitals are an essential public facility. As such, they are permitted in several residential districts as a conditional use. Therefore, as staff reviewed the application, it focused on whether conditions can be applied to mitigate the possible adverse impacts of the hospital use on the adjacent and nearby residential and non-commercial uses in keeping with the Comprehensive Plan policies. More on this analysis will be provided in the Conditional Use Permit portion of this section.*

2. That substantial changes in conditions have occurred affecting the use and development of the property that would indicate the requested change of zoning is appropriate. If it is established that a rezone is required to directly implement an express provision or recommendation set forth in the Comprehensive Plan, it is unnecessary to demonstrate changed conditions supporting the requested rezone.

*Staff Response – As noted earlier, the previous rezone application for this site was for medical office buildings, submitted in 2006. As was then and is now, the corridor along South 19<sup>th</sup> Street is occupied by a large number of medical office, hospital and other uses associated with the healthcare industry. The underlying change in condition that supports the change of use from a medical office use to a hospital is the increased need for hospitals and other essential public facilities that serve underserved populations such as substance abuse facilities, mental health facilities, group homes and transitional housing. A recent story on public radio discussing the need for mental health services on April 5, 2019 has been included as Exhibit 12. The applicant also received an Intent to Issue Certificate of Need letter from the Washington Department of Health for this proposal. See Exhibit 13.*

3. That the change of the zoning classification is consistent with the district establishment statement for the zoning classification being requested, as set forth in this chapter.

*Staff Response – As noted earlier, while the overall intent of the R-4-L District is for smaller-scale residential use, that intent statement also recognizes that conditional uses may be appropriate as they are required to comply with the more restrictive residential development standards. In this*



*case, the application will comply with or exceed R-4-L development standards, except for the location of a portion of the parking lot - for which a variance is requested and the proposed 40-foot building height - for which for hospitals may exceed the zoning 35-foot height limit if the demonstrates that the proposed height is consistent with the required conditional use criteria under TMC 13.06.640.D. If the rezone request is approved, staff recommended conditions for this application that include, but are not limited to, a retaining wall design plan and applying provisions from the City's Landscaping Code and Residential Compatibility Code to mitigate potential noise, light, glare and visual impacts on existing surrounding residential uses and South 19<sup>th</sup> Street interface.*

4. That the change of the zoning classification will not result in a substantial change to an area-wide rezone action taken by the City Council in the two years preceding the filing of the rezone application. Any application for rezone that was pending, and for which the Hearing Examiner's hearing was held prior to the adoption date of an area-wide rezone, is vested as of the date the application was filed and is exempt from meeting this criteria.

*Staff Response – This rezone will not result in a substantial change to an area-wide rezone action taken the City Council within two years of the submittal of this application. The last area-wide rezone action taken within the immediate vicinity of the subject site was when the medical office site located west of the subject site, was rezoned from R-2-T the T District under Ordinance No. 26935 in 2002. On a somewhat related matter, the City is currently reviewing residential area-wide rezones for several properties across South 19<sup>th</sup> Street from the site. The number of properties affected will depend on City Council's final review later this Summer, but they will all be limited to possible rezones within the residential district options.*

5. That the change of zoning classification bears a substantial relationship to the public health, safety, morals, or general welfare.

*Staff Response – Staff notes that the requested zoning change is a down-zone from the site's existing low-intensity commercial district designations into the R-4-L District, a low-intensity residential designation. The Land Use Code and Comprehensive Plan generally limit non-residential uses in the R-4-L District to conditional uses, for which a demonstration that the use will not impact the public health, safety, morals or general welfare of the adjacent neighbors, larger neighborhood and community. Staff has provided recommended conditions that seek to mitigate potential noise, light, glare and visual impacts on the surrounding residential uses and South 19<sup>th</sup> Street interface. Additional mitigations from the SEPA MDNS that address remediation of possible soils contamination, pedestrian, bicycle and vehicular safety, and an Archaeological Survey with an Unanticipated Discovery Plan will also be conditions for this proposal. These conditions will address many of the proposal's possible impacts on the public health, safety, morals or general welfare of the community.*

*However, staff recognizes that the most urgent concern voiced by the public has been the security concern of locating a psychiatric hospital at this site. This is a very different kind of public health and safety concern than possible soils contamination and traffic safety.*

*In his Narrative/Justification for the Site Rezone and CUP applications, the applicant advises that the hospital will provide quiet, internal, non-medical treatment to patients that are admitted voluntarily, not as part of a local, state or federal correctional or judiciary action. The applicant also*

*states that the facility will include strict security measures such as not allowing patients to leave the facility without being discharged.*

*During the application process and after the SEPA MDNS was issued, staff advised the applicant that more information on the security measures would be needed for staff to provide a recommendation on the Site Rezone and CUP applications as proposed. This is because under the Federal American Disabilities Act (ADA), staff cannot recommend conditions to a behavioral health hospital that would be different from any other type of hospital similar in size and location. Specially, staff's Legal Counsel advised that:*

- *Addiction and mental health conditions are legally classified as disabilities under the ADA.*
- *It is contradictory to the ADA to apply restrictions or conditions to behavioral health treatment facilities based on the type of issues they treat.*
- *Conditions applied to behavioral health treatment facilities cannot be different from those applied to all other medical treatment facilities of similar size and location.*

*With this in mind, staff recommended that the applicant provide additional information on the hospital's operational plans such staffing levels, training for security personnel and staff, emergency protocols, coordination with the City's emergency service providers, and patient monitoring, care, and discharge pre-cautions. Staff also recommended additional information to demonstrate how the strict security measures for the building in addition to the notation that a single-building design was chosen to contain all the patients and staff into one structure. Staff advised that information on physical barriers such as alarm systems, security fencing, and other internal and external hospital safety design features to protect patients, visitors, staff and the outside public should be provided.*

*As noted earlier, the applicant decided to go forward with the application without staff's recommendation on the Site Rezone and CUP and instead, to present its response to the public safety concerns at the public hearing, after first hearing the public testimony and possible questions from the Hearing Examiner.*

**Conditional Use Permit.** TMC 13.06.640.B. and D. provide that an applicant seeking a conditional use and additional height for that use must demonstrate consistency with all of the criteria listed below. The applicant's Narrative/Justification for the CUP is included as Exhibit 10 of this staff report.

B. Conditional uses and height. Since certain conditional uses have intrinsic characteristics related to the function or operation of such uses, which may necessitate buildings or other structures associated with such uses to exceed the height limits of the zoning districts in which the conditional uses may be located, the Director or Hearing Examiner may authorize the height of buildings or other structures associated with the following conditional uses to exceed the height limit set forth in the zoning district in which such uses are located; provided, such height is consistent with the criteria contained in subsection D of this section:

5. Hospitals.

D. Criteria. A conditional use permit shall be subject to the following criteria:

1. There shall be a demonstrated need for the use within the community at large which shall not be contrary to the public interest.

*Staff Response – As noted earlier, staff agrees that there is a demonstrated public need for mental health facilities. This is evident in the Intent to Issue Certificate of Need letter from the Washington*

*Department of Health for this proposal and recent community discussions regarding the increased need and how to provide mental health services. See Exhibits 12 and 13.*

2. The use shall be consistent with the goals and policies of the Comprehensive Plan, any adopted neighborhood or community plan, and applicable ordinances of the City of Tacoma.

*Staff Response – Staff finds that in-part, if the proper conditions are applied to address potential noise, light, glare, pedestrian, bicycle and vehicular safety, and visual impacts on existing surrounding residential uses, that the proposed use will be consistent with the goals and policies of the Comprehensive Plan and the applicable City ordinances. Staff also notes that under RCW 71.09.020, mental health facilities are an “Essential Public Facility”. In addition, no local Comprehensive Plan or development regulation may preclude the siting of essential public facilities (see RCW 36.70A.200). Cities and counties must develop criteria for siting essential public facilities (see WAC 365-196-550 and WAC 365-196-570). Staff understands that the City complies with these RCW and WAC provisions by allowing hospitals in a variety of zoning districts as either permitted or conditional uses with development criteria (such as this one) to assess whether the use is appropriate for a specific site location.*

*However, as noted earlier, staff cannot support the CUP and Site Rezone applications in their entirety, because sufficient information was not provided to address the public safety and security concerns. The primary challenge is that staff does not typically make public safety and security conditions for non-behavioral hospitals, so under the ADA, we cannot treat behavioral hospitals differently by applying such conditions.*

3. For proposals that affect properties that are listed individually on the Tacoma Register of Historic Places, or are within historic special review or conservation districts, the use shall be compatible and consistent with applicable historic preservation standards, and goals, objectives and guidelines of the historic or conservation districts. Proposed actions or alterations inconsistent with historic standards or guidelines as determined by the Landmarks Commission are a basis for denial.

*Staff Response – This site is not listed individually on the Tacoma Register of Historic Places, not within historic special review or conservation districts, nor is it located within the 1873 Puyallup Tribe Settlement Area. However, as previously noted, staff agreed with the DAHP recommendation for an Archaeological Survey with an Unanticipated Discovery Plan due to the extensive amount of grading proposed for the site and included it as a mitigation under the SEPA MDNS. This mitigation requirement has been incorporated a recommended condition for this application, should it be approved.*

4. The use shall be located, planned, and developed in such a manner that it is not inconsistent with the health, safety, convenience, or general welfare of persons residing or working in the community. The following shall be considered in making a decision on a conditional property use:

- a. The generation of noise, noxious or offensive emissions, light, glare, traffic, or other nuisances which may be injurious or to the detriment of a significant portion of the community.
- b. Availability of public services which may be necessary or desirable for the support of the use. These may include, but shall not be limited to, availability of utilities, transportation systems (including vehicular, pedestrian, and public transportation systems), education, police and fire facilities, and social and health services.
- c. The adequacy of landscaping, screening, yard setbacks, open spaces, or other development characteristics necessary to mitigate the impact of the use upon neighboring properties.



Staff Response – *Staff finds that if properly conditioned, and if the application is amended at the public hearing to show that public safety and security concerns are addressed, that the proposed use is located, planned, and developed in such a manner that is not inconsistent with the health, safety, convenience, or general welfare of persons residing or working in the community.*

*This CUP would also allow the overall height of the building to extend above the underlying 35-foot height limit. Staff finds that the 5-foot additional height as appropriate for a conditional use such as a hospital to allow for screening of rooftop HVAC mechanical equipment. The screening itself is a beneficial design element so the equipment will not be viewed from the adjacent streets or uses. The only exception is that the developable area of the direct neighboring property to the east, across South Durango Street, is located 20-30 feet above this site. As such, if there was not the existing heavy landscape screening along the steep slope of its western edge, this property owner would conceivably look down onto the rooftop of the hospital. However, this property owner's western edge is a steep slope that is regulated under the CAPO and so substantial vegetation of this slope is required to be maintained. This along with the buffer landscaping recommended for the proposal will provide ample screening of the hospital's rooftop.*

*With regards to the availability of public services to support the hospital, the site is located in an urban environment where adequate public services and infrastructure are in place or are planned to be provided to support continued development and infill of existing neighborhoods. That said, due to the many comments made regarding public safety and security concerns, staff requested that the Tacoma Police Department review the application and provide its analysis on whether there are adequate police facilities for the proposal. As noted earlier, staff from the Police Department will attend the public hearing to provide testimony and/or respond to questions from the Hearing Examiner, staff, the applicant and the public.*

5. An application for a conditional use permit shall be processed in accordance with the provisions of Chapter 13.05.

Staff Response – *The CUP and Parking Lot Development Standards Variance applications are before the Hearing Examiner's decision as required under TMC 13.05.040.E. and 13.05.060. These sections read as follows:*

*TMC 13.05.060. The Hearing Examiner shall consider concurrently all related land use permit applications for a specific site, and any accompanying environmental appeal. Applications for which the Director has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow concurrent consideration of all land use actions, as prescribed in Section 13.05.040.*

*TMC 13.05.040.E. Consolidated Review of Multiple Permit Applications and of Environmental Appeals with the Underlying Land Use Action. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently. Therefore, in this situation, applications for which the Director has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.*

**Parking Lot Development Standards Variance.** The applicant's Narrative/Justification for the Variance is included as Exhibit 11 of this staff report. TMC 13.06.645.B.6.b. provides that the Director or Hearing Examiner may authorize a parking lot development standards variance for one or more of the following reasons:

(1) Reasonable alternatives are to be provided to said standards which are in the spirit and intent of this chapter; or

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(2) Strict enforcement of the standards would cause undue or unnecessary hardship due to the unique character or use of the property.

Staff Response – *The variance requested is to allow a portion the surface parking lot in front of the building instead of the side or rear of the building as required under TMC 13.06.510.A.10., which states:*

*“Vehicle access and parking for all single, two and three dwelling residential uses and townhouses, and all non-residential development in R-Districts (except see Section 13.06.510.C for applicable standards in X-Districts). All on-site parking shall be located in the rear portion of the lot and shall not be accessed from the front if suitable access to the rear is available, such as an abutting right-of-way that is or can practicably be developed. If access is not practicably available to the rear yard or not practicably limited only to the rear and sides (such as for institutional and other large uses), subject to determination by the City Engineer, then vehicular access to the front may be developed. However, in all cases such access and parking shall be limited to the minimum necessary and in no case shall driveway and/or parking areas exceed a total of 50 percent of the front yard or 50 percent of a corner street side yard. In the case of Small Lots, see the additional provisions of Section 13.06.145.”*

*Since the wetlands and buffers at the south side of the site prevents the parking area to be located completely at the rear portion of the site, this code requires that the remaining parking be located to the side of the building and not occupy more than ½ of the front yard. If this variance is approved, it would also allow for the parking area to occupy more than ½ of the front yard. See Site Plan sheets within Exhibit 3.*

*Even though the applicant provided a response to both variance criteria, staff understands that a demonstration of only one criteria is required and so it will respond to the first criteria, for which it feels a stronger response can be made for this site.*

*On this note, staff agrees with the applicant that the code provision seeks to avoid a “sea of asphalt” along a site’s frontage. However, the intent of the code is also to provide a more pedestrian friendly street. Since South 19<sup>th</sup> Street is designated a pedestrian street by the Comprehensive Plan, staff also assessed whether the design provides a reasonable alternative to create a more pedestrian friendly environment.*

*The in-patient entry for the hospital faces South 19<sup>th</sup> Street and the proposed parking area in front of the building is designed to create a drop-off/loading area that is typical for hospitals. As noted, earlier the sidewalk at South 19<sup>th</sup> Street is located about 20 feet above the majority of the site and while extended views from the sidewalk will be of mostly rolling topography, the drop-off from the sidewalk at the property line is steep enough to require 10- to 13-foot retaining walls and a slope easement. While staff does not see the site’s topography a condition creating the need for the variance, it is important to consider how the building and public space would relate if the building was pulled forward or no parking was proposed in front of the building.*

*If the building is located closer to the north front property line, the 2<sup>nd</sup> floor or patient rooms would be directly in line with the sidewalk elevation. The main entry and outdoor courtyard would be almost 20 feet lower. In addition, whether there is parking in front of the building or not, an extensive design for the required walkway is needed to overcome the substantial drop in topography from the sidewalk to the developable grade elevation. So while there would be no parking, the walkway would be making its way to the building either along the side of the building or through an extensive landscaped or open area, which could create some safety concerns in itself.*

*A public comment was made regarding the cost of grading not being a justification for the variance. Staff agrees on this point and typically advise customers to design for the existing grade. As such, adding a substantial amount of grade to raise the first floor level to be at or closer to the sidewalk at*

*South 19<sup>th</sup> Street is not preferred. It would also artificially raise the overall building height which brings another level of compatibility issues with the adjacent residential neighbors and residential property located across South Durango Street.*

*Another factor considered is that hospitals do not typically attract pedestrian activity directly from the public sidewalk in the same way as typical commercial, retail and eating/drinking establishments. While pedestrian visitors and employees may enter the site from the street and nearby bus stops, they are not going to the hospital for entertainment, to dine or shop. Therefore, staff finds that an alternative way to provide for pedestrian activity at the hospital's entrance and soften the transition between the parking area and street is to enhance the proposed courtyard for the employees and visitors with outdoor pedestrian amenities and require landscape buffer plantings. Both which are in spirit and intent of the code by softening the visual transition between the street and development and providing for pedestrian activity at the entrance of the building.*

- For the potential visual impact, staff recommends that the landscape buffer planting requirements under the Landscaping Code be required around the site, except for within the wetland buffer. The landscaping buffer includes larger and more numerous tree species and shrubs than the standard perimeter strip to help mitigate the potential visual, noise, light and glare impacts of a commercial use on an adjacent or nearby residential use.*
- To create a level of pedestrian activity that is more appropriate for a hospital use, staff recommends that public plaza type elements be applied to the outdoor courtyard located just east of the building's front entrance. Under this condition, the courtyard would be required to provide a design that includes benches or other seating, tables, trees, planters, and a fountain, informational kiosk or art work to provide a quiet respite area for visitors and employees.*

**Critical Areas Verification Permit.** TMC 13.11.220.B.1. provides that an applicant may request verification of a wetland, or stream, or FWHCA on the subject site or within 300 feet of the subject site without submitting plans for a specific project. A verification request may include the presence of critical areas, a boundary determination through wetland delineation or an Ordinary High Water Mark determination. A verification request may also include the jurisdictional status of a critical area.

The City's Environmental Specialist, Shannon Brenner, reviewed the Critical Areas Report and hydrology analysis for this application and provided her analysis as a Technical Memo, dated June 24, 2019. See Exhibit 7. Ms. Brenner verified the presence of a Category III wetland and its 75-foot buffer that extends onto the south westerly portion of the site. She also verified that wetland drains to the north along the western edge of the site where it then enters the City's stormwater system near the northern property boundary and ultimately discharges to Snake Lake. This linear drainage is regulated as a Type Ns2 stream. Ns2 streams are seasonal non-fish streams and have a buffer of 25 feet.

Ms. Brenner found that the project will avoid placing structures within the critical areas and buffers except for the dispersion trench segments that are being installed to maintain the hydro-period of the critical areas. TMC 13.11.250 allows for low-impact storm water management facilities that sustain existing hydrologic functions of critical areas to be placed in critical area buffers. In conclusion, Ms. Brenner found that if properly conditioned, the proposal will meet the standards under TMC Chapter 13.11, the City's Critical Areas Preservation Ordinance. Ms. Brenner's recommended conditions of approval are included under Section J. of this staff report.

## **G. APPLICABLE COMPREHENSIVE PLAN GOALS & POLICIES:**

The City's Comprehensive Plan is intended to provide a basis for land use and zoning decisions. The excerpts from Comprehensive Plan are goals and policies provided in Exhibit 14 are those that staff, the applicant, and public commenters have identified as applicable to the development of essential public facilities, considerations for adjacent residential neighbors and the larger community, stormwater management and the protection of natural resources.

## **H. PROJECT RECOMMENDATIONS AND ADVISORY COMMENTS:**

As part of the City's standard review process for the required land use applications for this proposal, notice of this application and environmental determination was emailed to various City departments as well as many outside governmental and non-governmental agencies. These agencies, as noted below, have provided advisory comments and/or recommended conditions to the Planning and Development Services Department regarding this proposal. These comments, where appropriate, have been incorporated in the "Recommended Conditions" along with the required mitigations from the SEPA-MDNS in Section J. or as "Advisory Comments" in Section K. of this staff report. City staff and outside agency responses are contained with Exhibits 7, 8, and 15.

The City and outside agencies that were notified and/or provided comments are as follows:

PDS - Land Use and Critical Areas	See Sections J.1. and J.2.
PDS - Site Development Group (Stormwater Management Off-Site Improvements)	See Sections J. 3. and 4. and K.3.
PDS – Historic Preservation / Washington State Department of Archaeology & Historic Preservation	See Section J.5.
Public Works Department - Traffic Engineering	See Section J.6.
WA Department of Ecology and the Tacoma-Pierce County Health District	See Sections J.7. and K.10.
PDS - Building Code	See Section K.4.
Environmental Services - Solid Waste	See Section K.5.
Public Works Department - Real Property Services	See Section K.6.
Tacoma Fire Department	See Section K.7.
Tacoma Power	See Section K.8.
Tacoma Water	See Section K.9.
Tacoma Police Department	Will Attend Public Hearing
Pierce County Assessor-Treasurer	No response
Washington Department of Fish and Wildlife	No response
US Army Corps of Engineers	No response
US Fish & Wildlife Service	No response
MetroParks Tacoma	No response
Tacoma Public Schools	No response
PDS – Planning	No response
Pierce Transit	No response
Tacoma Public School District #10	No response
Puget Sound Clean Air Agency	No response
Central Neighborhood Council	No response
Community Economic Development Department (Central Business District - City Liaisons)	No response
Puyallup Tribe	No response
Puget Creek Restoration Society	No response
Tahoma Audubon Society	No response

## **I. BURDEN OF PROOF:**

The applicant bears the burden of proof to demonstrate that the proposal is consistent with the criteria for the approval of the site rezone (TMC 13.06.650), CUP (TMC 13.06.645.B. and D.), Parking Lot Development Standards Variance (TMC 13.06.645.B.6.b) and the Critical Areas Verification Permit (TMC Chapter 13.11).

## **J. RECOMMENDATION AND CONDITIONS OF APPROVAL:**

Staff recommends approval of the Parking Lot Development Standards Variance and Critical Areas Verification Permit with the recommended conditions of approval provided below.

As noted in this staff report, the applicant requested that it be able to respond at the Public Hearing to the public safety and security concerns expressed in the written comments submitted so far and as required by the Site Rezone and CUP criteria for this application. Should the Hearing Examiner decide to recommend approval of the Site Rezone and CUP to the City Council, staff recommends the following conditions of approval:

### **1. LAND USE**

- a. Any future development of the site shall be consistent with the R-4-L Low-Density Multiple-Family Dwelling District development standards (TMC 13.06.100), the Landscaping Code (TMC 13.06.502), Parking Code (TMC 13.06.510), Transit Support Facilities (TMC 13.06.511), Bicycle and Pedestrian Support Standards (TMC 13.06.512), all other applicable sections of the Tacoma Municipal Code, and the conditions of this land use decision.
- b. A Lot Combination is required prior to issuance of the building and development permits. The TIP Sheet at <http://tacomapermits.org/tip-sheet-index/lot-segregations-and-combinations> may be used to start the application process.
- c. A retaining wall design plan that includes cross-sections and exterior elevations shall be provided to show the height and exterior finish for the retaining walls and its relationship to the required landscape buffer plantings around the site.
- d. The required Landscape Plan shall provide the type, size and location of trees, shrubs, and groundcover plan for the Landscape Buffer within the north front, south rear and east and west side yards, except for within the regulated critical areas buffers, as follows:
  - i. A minimum of one evergreen tree for every 150 square feet arranged in a manner to obstruct views into the property.
  - ii. Shrubs at a rate of one shrub per 20 square feet of landscaped area. In addition to being from minimum 3-gallon sized containers, shrubs shall be at least 16 inches tall at planting and have a mature height of at least 3 feet.
  - iii. Groundcover plants for entire landscape buffer area.
- e. The site development permit plans shall show compliance with the following light, glare trespass and pollution requirements:
  - i. Light trespass. Light trespass from sites in non-residential zoning districts shall not exceed 3 lux (0.3 foot candles) at parcel boundaries with residential zoning districts. This luminance value shall be measured at the eye in a plane perpendicular to the



line-of-sight when looking at the brightest source in the field of view at any point on the property line of any residential parcel.

- ii. Residential light pollution. To ensure control of and to minimize glare, any lighting within 100 feet of a R-District shall use luminaires which meet the Illuminating Engineering Society's cutoff light distribution specification.
  - iii. General light pollution. To control and minimize glare, all other luminaries for area and/or off-street parking shall meet the Illuminating Engineering Society's semi-cutoff light distribution specification. Lighting shall be directed toward the site, with cutoff shields or other means, to prevent spillover glare to adjacent properties or vehicular traffic. Luminaires with a light source not greater than 1800 lumens (100 watt incandescent) are exempt from this requirement.
- f. The site development permit plans shall show benches or other seating, tables, trees, planters, and a fountain, informational kiosk or art work in a design to provide a quiet respite area for visitors and employees.

## 2. CRITICAL AREAS

- a. Notice on Title shall be recorded and critical area fencing and signage will be installed at the edge of all critical area buffers located on the subject site per TMC 13.11.280(A)(1).
- b. A mitigation and monitoring plan that meets the requirements of TMC 13.11.230 will be submitted areas disturbed in construction and placement of the dispersal trenches in critical area buffers prior to issuance of any development permits.
- c. A performance and maintenance bond for the mitigation will be posted prior to issuance of any development permits per TMC 13.11.290.
- d. At the time of submittal for development permits, a final Stormwater Site Plan with pre- and post-hydrology analysis will be submitted demonstrating that the hydroperiod for all critical areas shall be maintained. The report will be reviewed for compliance with TMC 13.11 as well as the City's SWMM. Failure to maintain the hydroperiod of critical areas will require mitigation sequencing to include a reduction in the degree or magnitude of the proposal and additional permitting as required under TMC 13.11.220.
- e. Private stormwater easements shall be obtained for all stormwater management BMPs (dispersal trench vegetated flow paths) located on private property under different ownership.

## 3. STORM AND SANITARY SEWERS

- a. The proposal shall comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual, Side Sewer and Sanitary Sewer Availability Manual, Tacoma Municipal Code 12.08, Tacoma Municipal Code 2.19, Tacoma Municipal Code 10.14, Tacoma Municipal Code 10.22 and the Right-of-Way Design Manual in effect at time of vesting land use actions, building or construction permitting.
- b. Any utility construction, relocation, or adjustment costs shall be at the applicant's expense.
- c. The proposal is to discharge the site surface water to maintain wetland hydrology via dispersion trenches and vegetated flow paths. As proposed, the vegetated flow path required is partly on adjacent private property. Private stormwater easements shall be obtained for stormwater management BMPs located on private property under different ownership. The easement shall encompass the BMP, including any required downstream

vegetated flow paths required to maintain the downstream discharge conditions. The easement shall permit access for maintenance or replacement in the case of failure. If an easement is unable to be obtained, the private BMP shall be relocated to be fully contained on the owner's private property, including any required downstream vegetated flow paths required to maintain the downstream discharge conditions.

- d. Per Volume 5, Section 1.1 of the SWMM, enhanced water quality treatment is required for all pollution generating surfaces discharging to the stream and the wetland.
- e. Per Volume 1, Section 3.4.7 of the SWMM, flow control is required for this project for the portion of the site discharging to the stream.
- f. Per Volume 1, Section 3.4.8 of the SWMM, wetlands protection is required for this project for the portions of the site discharging to the wetland, either directly or indirectly.
- g. Be advised, the hydrology report and associated plans are considered preliminary and intended to determine the feasibility of compliance with the SWMM. The drawings and associated reports are not approved for construction.

#### **4. STREETS, DRIVEWAYS, AND SIDEWALKS**

##### **South 19<sup>th</sup> and Madison Street intersection**

- a. Curb ramps at the intersection of S. 19th and Madison Streets shall be constructed meeting current Tacoma & ADA standards. Curb installation shall include the SW corner and the SE corner receiving ramps and shall be directional.

##### **South 19<sup>th</sup> Street**

- b. Remove and replace existing 5' sidewalk abutting the sites with a new 7' sidewalk meeting Public Right of Way Accessible Guidelines (PROWAG) and Americans with Disabilities Act (ADA) requirements, and be installed to the approval of the City Engineer.
- c. South 19th Street fronting the property shall be restored in accordance with the Right-of-Way Restoration Policy.
- d. Remove asphalt from planters and replace with grass.

##### **South. 19<sup>th</sup> and Proctor Streets Intersections**

- e. Curb ramps at the intersection of So 19th and Proctor Street shall be constructed meeting current Tacoma & ADA standards. Curb installation shall include the SW corner and the SE corner and shall be directional receiving ramps.

##### **South 19<sup>th</sup> and Durango Streets Intersection**

- f. Curb ramps at the intersection of S. 19th and Durango Streets shall be constructed meeting current Tacoma & ADA standards. Curb installation shall include the SW corner and the NW corner receiving ramps.

#### **5. HISTORICAL AND CULTURAL PRESERVATION**

- a. In order to reduce the potential for adverse effects to undiscovered archaeological resources, the applicant shall provide a professional Archaeological Survey and an Unanticipated Discovery Plan for the project area with its Site Development Permit application.
- b. The Unanticipated Discovery Plan shall include, but not limited to, the following:

- i. The City has the authority without penalty to suspend work in the area of discovery for up to 5 working days so the artifacts can be properly classified, documented, handled and removed.
- ii. In the event that human remains are discovered, the applicant shall secure the site and contact the Pierce County Medical Examiner, the Puyallup Tribe of Indians, City Historic Preservation Officer, and the State Department of Archaeology and Historic Preservation prior to the removal of any materials. The Medical Examiner shall be requested to minimally disturb in situ remains, only as necessary to complete his preliminary analysis.
- iii. The applicant shall include in all development contracts a stipulation that any discovery of archaeological or cultural resources shall be kept confidential until such time as release of information (including but not limited to photos or other information posted on social media sites) is approved by the City Historic Preservation Officer.

## 6. TRAFFIC ENGINEERING

- a. The proposal will change intersection movements as they relate to potential safety considerations at the site's primary (and only) access point via the south leg of the existing signalized intersection of South 19th Street and South Proctor Street. To mitigate an increased risk for collision at the intersection, the Engineering Division has determined that:
  - i. The existing southbound approach of Proctor Street at South 19th Street shall be re-channelized (i.e., striping and signing) to provide for a shared through/left-turn lane and a dedicated right-turn lane. This reconfiguration should be able to be carried out within the existing curb-to-curb width of the roadway. A re-analysis with the new configuration is not necessary since the study's already assumed single lane configuration will yield the most-delayed results, which were deemed acceptable.
  - ii. As a result of the forecasted increase in left-turn traffic volume and conflicting traffic movements therewith, the signal phasing and signal heads are to be replaced to allow for permissive left-turn operations from all approaches via flashing yellow arrow, which is Tacoma's standard for modified/new traffic signals.
  - iii. So as not to encourage through traffic use of the site access drive, the south leg of the intersection shall be designed to City standards, and in coordination with an overlapping City of Tacoma Public Works capital project, for a driveway rather than a street intersection, while still providing all of the necessary design provisions (geometrically and with respect to signal infrastructure) for accessible pedestrian mobility across the south leg and accessing across South 19th Street.

## 7. ENVIRONMENTAL HEALTH

- a. A permit for the handling, use, storage or disposal of hazardous wastes is required. Please contact Keith Johnston of the Tacoma-Pierce County Health Department at 253-798-6561.
- b. According to the Ecology facility/Site Atlas, the site is located within the Tacoma Smelter Plume with an area that exceeds 20.0 ppm for arsenic levels. Prior to issuance of a Site Development, the applicant shall provide the following:
  - i. Sample the soil and analyze for arsenic and lead following the 2012 Tacoma Smelter Plume Guidance. The soil sampling results shall be sent to Ecology for review. If the

- project includes open space areas, contact the Technical Assistance Coordinator, Eva Barber, for assistance in soil sampling methodology within the open space area.
- ii. If lead or arsenic are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels (Chapter 173-340 WAC); the owners, potential buyers, construction workers, and others shall be notified of their occurrence. The MTCA cleanup level for arsenic is 20 parts per million (ppm) and lead is 250 ppm.
  - iii. If lead, arsenic and/or other contaminants are found at concentrations above MTCA cleanup levels, the applicant shall:
    - a. Develop soil remediation plan and enter into the Voluntary Cleanup Program with Ecology. For more information on the Voluntary Cleanup Program, visit Ecology website at: <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program>.
    - b. Obtain an opinion letter from Ecology stating that the proposed soil remediation plan will likely result in no further action under MTCA. The applicant shall provide to the local land use permitting agency the opinion letter from Ecology.
    - c. Prior to finalizing site development permits, provide to the local land use permitting agency "No Further Action" determination from Ecology indicating that the remediation plans were successfully implemented under MTCA.
    - d. If soils are found to be contaminated with arsenic, lead, or other contaminants, extra precautions shall be taken to avoid escaping dust, soil erosion, and water pollution during grading and site construction. Site design shall include protective measures to isolate or remove contaminated soils from public spaces, yards, and children's play areas. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulation (Chapter 173-350 WAC). For information about soil disposal contact the local health department in the jurisdiction where soils will be placed.

#### **K. ADVISORY COMMENTS:**

Prior to obtaining building or grading permits, the proponent shall contact the appropriate City departments and outside agencies to make the necessary arrangements for all required improvements. The required departmental approvals shall be acquired from, but not necessarily limited to, Planning and Development Services (253-591-5030), Tacoma Power (253-383-2471), Tacoma Water (253-383-2471), and Public Works Department (253-591-5525) the Tacoma-Pierce County Health Department and Washington Department of Ecology.

The following comments are advisory and will be applicable to required building and development permits associated with this proposal:

##### **1. City Noise Code**

Per the City Noise Code, noise levels during construction and when the hospital is in operation shall not exceed the maximum limits under the City's Noise Code, TMC 8.122.060 and TMC 8.122.070, or as amended:

- i. No more than 5 dBA above ambient at night (10 pm – 7 am) and 10 dBA above ambient during the day (7 am to 10 pm). – See TMC 8.122.060;
- ii. All construction devices used in construction and demolition activity shall be operated with a muffler if a muffler is commonly available for such construction device. – See TMC 8.122.070; and

- iii. Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 9:00 p.m. and 7:00 a.m. on weekdays or between the hours of 9:00 p.m. and 9:00 a.m. on weekends and federal holidays, except as otherwise provided in this code. – See TMC 8.122.070.

## **2. Protection of Adjacent Properties**

With the development of the project, the proponent shall be responsible for adverse impacts to other property abutting the project. The project shall be designed to mitigate impacts including, but not limited to, discontinuities in grade, abrupt meet lines, access to driveways and garages, and drainage problems. Slopes shall be constructed with cuts no steeper than 1-1/2:1, and fills no steeper than 2:1, except where more restrictive criteria is stipulated by the soils engineer. When encroaching on private property, the project engineer shall be responsible to obtain a construction permit from the property owner. The design shall be such that adverse impacts are limited as much as possible. When they do occur, the project engineer shall address them.

## **3. Storm and Sanitary Sewers**

- a. The applicant shall review SWMM Minimum Requirements #1-10 and comply with all applicable requirements.
- b. A Covenant and Easement Agreement shall be required for all projects with private storm drainage systems.
- c. This project is located within the South Tacoma Groundwater Protection District (STGPD). The City of Tacoma Environmental Services Department and Tacoma-Pierce County Health Department (TPCHD) developed a guidance document that provides the circumstances and requirements for approval of infiltration facilities for managing pollution-generating stormwater runoff in the STGPD. The policy is available at <http://cms.cityoftacoma.org/enviro/SurfaceWater/signed%202017%20policy%20ESD17-1.pdf>. Additional information on the STGPD is located on the TPCHD website at <https://www.tpchd.org/healthy-places/waste-management/business-pollution-prevention/south-tacoma-groundwater-protection-district>
- d. A site development (SDEV) permit is required.
- e. It appears this project will disturb one or more acre of land or is part of a larger common plan of development or sale that has disturbed or ultimately will disturb one or more acres of land; and discharge stormwater from the site. Coverage under a Washington State Department of Ecology (Ecology) NPDES Stormwater Construction General Permit (CSWGP) may be required.
  - For assistance with the CSWGP contact the Ecology Southwest Region Pierce County Permit Administrator: (360) 407-7451.
  - For Information about the Construction Stormwater General Permit and requirements, visit Ecology's ISWGP webpage: <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit>.
  - To submit a Notice of Intent (NOI) for coverage under the CSWGP apply online through Ecology's WQWebPortal: <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance>.
- g. Peak daily sanitary flow calculations, prepared by a licensed engineer, shall be submitted to the Science & Engineering Division. Peak daily flows shall be calculated in accordance with the Washington State Department of Ecology Criteria for Sewage Works Design (Orange Book). Science & Engineering Division staff will then determine if the sewer system has enough capacity to accommodate the new peak flows in addition to upstream peak flows for fully developed conditions. If the public sewer system does not have enough capacity to



accommodate the proposed development, the public sanitary sewer shall be upsized prior to sewer connection.

h. City documents are available online at the following locations:

- City of Tacoma Stormwater Management Manual:  
[www.cityoftacoma.org/stormwatermanual](http://www.cityoftacoma.org/stormwatermanual)
- City of Tacoma Side Sewer and Sanitary Sewer Availability Manual:  
[www.cityoftacoma.org/sidesewer](http://www.cityoftacoma.org/sidesewer)
- Right-of-Way Design Manual:  
[www.cityoftacoma.org/designmanual](http://www.cityoftacoma.org/designmanual)
- City of Tacoma Right-of-Way Restoration Manual:  
<http://www.govme.org/download/PDF/PublicWorks-Right-of-Way-RestorationPolicy.pdf>

#### **4. Building Code**

- a. Construction shall comply with the adopted Building Code(s) at the time of building permit application acceptance.

#### **5. Environmental Services – Solid Waste**

- a. Garbage and recycling in this location as a side load container. This will need to be either a front load or roll of container/compactor. The enclosure will need to meet the minimum requirements. See TMC 12.09.120.
- b. FRONT-LOAD CONTAINERS Front-load containers are collected from the front of the truck which has an outside wheel turning radius of approximately 46.5 feet and an inside turning radius of approximately 32.5 feet. This truck is approximately 36 feet long and must line up directly in front of the container.
- c. Enclosures for front-load containers shall have a minimum inside opening width of 12-feet and a minimum inside depth of 10-feet for one container. For two or more containers, a 3-foot clearance between the enclosure wall and container is required as well as a 2-foot clearance between containers. If gated, the gates must swing 180-degrees and must be able to be pinned in the open position. Front-load containers are available in 2-, 3-, 4-, 6- and 8-yard sizes.
- d. DROP-OFF CONTAINERS/COMPACTORS The drop-off containers are collected with a truck that is approximately 32-feet in length and must be able to line up directly in front of the container. Enclosures for drop-off containers shall have a minimum inside opening width of 12-feet and the depth must extend at least 3-feet beyond the end of the container. There must be a minimum 3-foot clearance between the enclosure wall and the container. Drop-off containers are approximately 16 to 18 feet long, 8 feet wide and the height varies with the capacity of the container. If gated, the gates must swing 180-degrees and must be able to be pinned in the open position. The City will also haul privately-owned drop-off or front-load style compactors. The siting of a compactor's location shall be coordinated, and specifically approved by, SWM staff prior to installation. The specific type/size of compactor must be disclosed along with the building plans. The City may require that compactors, which may contain liquids, be equipped with a drain and a connection to a sanitary sewer be provided.

If you have any further questions, feel free to contact Lyle Hauenstein during regular business hours at (253) 594-7843.

## **6. Public Works Department - Real Property Services**

- a. The Easement reserved in SV124.1345/Ord. No. 28314 (E4393), must be shown on the building permit and development plans.

## **7. Tacoma Fire Department**

- a. Construction shall comply with the adopted Fire Code at the time of building permit submittal.

## **8. Tacoma Power**

- a. Site Notes – This site will require the wreckout of the existing single phase overhead line running East to West that feeds the existing homes on Madison St. These homes will need to be re-fed from a different route, simply relocating poles will not work, this will be a system wreckout and rebuild. 3 phase power is available on the North side of S 19th St for the Hospital service. The overhead pole line that runs North to South over the property is a transmission line and is unavailable for secondary power. I anticipate significant costs to do this work. Please apply for service by filling out New Service application and returning it to Tacoma Power's New Services Engineering Dept. As soon as possible. Should you have any questions please contact Tony Daniels at (253) 502-8076 or [tdaniels2@ci.tacoma.wa.us](mailto:tdaniels2@ci.tacoma.wa.us).
- b. General Notes - Any construction, relocation or adjustment costs shall be at the applicant's expense. All new electrical services will be installed underground unless otherwise approved by Tacoma Power Engineering; additional utility easements may be required.
- c. Submittal Requirements - Electric Service Application to Tacoma Power New Services Engineering Department. Review the Commercial Project Development Process online to determine additional submittal requirements. Application for Electrical Permit to Tacoma Power Electrical Inspection Department. For services over 400 amps, a set of electrical plans must be submitted to the Electrical Inspection Office for review.
- d. Fees - Fees for new electrical service or upgrading the existing electrical service will be determined when the power requirements are submitted to Tacoma Power New Services Engineering Department. Fees for the electrical permit are based on the electrical contractors bid amount and have not been determined.
- e. Forms and information are available online at <http://www.mytpu.org/tacomapower/permitting>.
- f. The [builder, developer, and/or owner] must observe the appropriate clearances to Tacoma Power's facilities during construction.
- g. Appropriate clearances must be maintained between all structures and Tacoma Power's facilities. No building shall be constructed under a primary power line. Buildings in the vicinity of the overhead lines must meet WAC, NEC, NESC and Tacoma Power requirements for clearance. Alternatively, the [builder, developer, and/or owner] shall incur all costs associated with relocating Tacoma Power's facilities in order to obtain the appropriate clearances. Costs of relocation include demolition of existing facilities, construction of new facilities, restoration of property as necessary, and relocation of other utilities as necessary.
- h. Tacoma Power requests to retain all existing easements and facilities in the subject area(s). Alternatively, the [builder, developer, and/or owner] shall incur

all costs associated with relocating Tacoma Power's facilities. Costs of relocation include demolition of existing facilities, construction of new facilities, restoration of property as necessary, and relocation of other utilities as necessary. The [owner, developer, and/or builder] shall assist Tacoma Power and other affected utilities in obtaining all necessary easements for said relocated facilities.

- i. The [builder, developer, and/or owner] shall provide Tacoma Power and other affected utilities with all necessary easements.

## **9. Tacoma Water**

- a. Plans do not show 2" galvanized water main and services in vacated S Proctor Street.
- b. Water main and services of other customers will need to be relocated. Please contact Jesse Angel at (253) 502-8280 to start the private contract process.
- c. Extension of a permanent water main shall be constructed by private contract. The developer of the privately financed project will be responsible for all costs and expenses incurred by Tacoma Water for preparation of plans and specifications, construction inspection, testing, flushing, sampling of the mains, and other related work necessary to complete the new water main construction to Tacoma Water standards and specifications. The engineering charge for the preparation of plans and specifications will be estimated by Tacoma Water. The developer will be required to pay a deposit in the amount of the estimated cost. The actual costs for the work will be billed against the developer's deposit. The new mains will be installed by and at the expense of the developer. The developer will be required to provide a 20-foot wide easement over the entire length of the water main, fire hydrant, service laterals and meters. The developers Professional Land Surveyor shall prepare and submit the legal description of the easement to Tacoma Water for review and processing. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, and sampling will be due to Tacoma Water. Upon completion of the project, the developer will either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten weeks. Contact Jesse Angel at (253) 502-8280.
- d. Contact Chris Hicks at (253) 396-3057 for information and estimated costs to relocate other customer's services.
- e. General comments - The existing water services to this project shall be utilized or retired by Tacoma Water at the owners' expense. If new or modification of existing domestic water services are required, they will be sized and installed by Tacoma Water after payment of the Service Construction Charge, and the Water Main Charge, and the System Development Charge. If new fire service is required, it will be sized by fire consultant and installed by Tacoma Water after payment of the Service Construction Charge. Contact Chris Hicks at (253) 396-3057 for an estimate.
- f. If a new fire hydrant is required at a location with an existing water main, the hydrant will be installed by Tacoma Water after payment of an installation charge.
- g. If existing water facilities need to be relocated or adjusted due to street improvements for this proposal they will be relocated by Tacoma Water at the owners' expense.
- h. Tacoma Water facilities must remain accessible at all times. Any damage to Tacoma Water facilities will be repaired by Tacoma Water crews at the expense of the developer.
- i. Sanitary sewer mains and side sewers shall maintain a minimum horizontal separation of ten (10) feet from all water mains and water services. When extraordinary circumstances dictate the minimum horizontal separation is not achievable, the methods of protecting water facilities shall be in accordance with the most current State of Washington, Department of Ecology "Criteria For Sewage Works Design".

- j. For utilities other than sanitary sewer, the proposed facilities shall have a minimum horizontal separation of five (5) feet and vertical separation of twelve (12) inches from Tacoma Water facilities.

#### 10. **Environmental Health – Washington Department of Ecology**

The Department of Ecology provided the following advisory comments for the building and development permit construction phase for water quality protection:

- a. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or stormdrains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.
- b. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
- c. The following construction activities require coverage under the Construction Stormwater General Permit:
  - i. Clearing, grading and/or excavation that results in the disturbance of one or more acres **and** discharges stormwater to surface waters of the State; and
  - ii. Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more **and** discharge stormwater to surface waters of the State.
    - a) This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, **and** discharge to surface waters of the State; and
- d. Any size construction activity discharging stormwater to waters of the State that Ecology:
  - i. Determines to be a significant contributor of pollutants to waters of the State of Washington.
  - ii. Reasonably expects to cause a violation of any water quality standard.
- e. If there are known soil/ground water contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted.
- f. You may apply online or obtain an application from Ecology's website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> - **Application**. Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.
- g. Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action. If you have any questions or would like to respond to these comments, please contact Chris Montague-Breakwell at 360-407-6364.